

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Complaint No. R1-2008-0114

For

Violation of Waste Discharge Requirements
Order No. R1-2001-59 (NPDES No. CA0023671)

In the Matter of
Loleta Community Services District
Wastewater Treatment Facility
WDID No. 1B80081OHUM

Humboldt County

This Complaint, to assess administrative civil liability for penalties pursuant to Water Code sections 13385, is issued to the Loleta Community Services District (hereinafter Discharger) for violations of Waste Discharge Requirements (WDRs) Order R1-2001-0059. Mandatory minimum penalties are assessed for violations of effluent limitations occurring during the period from May 1, 2005 through April 30, 2008.

The Assistant Executive Officer of the Regional Water Quality Control Board, North Coast Region (Regional Water Board), finds the following:

1. The Discharger owns and operates a publicly owned treatment works, the Loleta Wastewater Treatment Facility (WWTF), which serves the community of Loleta. The WWTF discharges secondary-treated wastewater into a wetland that during the wet season (October 1 to May 14) overflows to an unnamed slough, which is tributary to the Eel River.
2. The Regional Water Board adopted Waste Discharge Requirements Order No. R1-2001-59 for the Discharger on June 28, 2001. Order No. R1-2001-59 serves as a National Pollutant Discharge Elimination System (NPDES) permit under the Federal Clean Water Act.
3. This Complaint covers violations of effluent limitations that occurred from May 1, 2005, through April 30, 2008. Details of effluent limitation violations are summarized in Findings 11 and 12. Effluent violations identified in Finding 11 are subject to the mandatory minimum penalties provision contained in Water Code sections 13385 (h) and (i).
4. Water Code section 13385, subdivision (h)(1), establishes a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation of an NPDES permit effluent limitation. Water Code section 13385, subdivision (h)(2) states that a serious violation occurs if the discharge from a facility regulated by an NPDES permit exceeds the effluent limitations for a Group I pollutant, as specified in Appendix A to section 123.45 of title 40 of the Code of

Federal Regulations, by 40 percent or more, or for a Group II pollutant, as specified in Appendix A to section 123.45 of title 40 of the Code of Federal Regulations, by 20 percent or more.

5. Water Code section 13385, subdivision (i)(1) establishes a mandatory penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any six-month period:
 - a. Violates a waste discharge requirement effluent limitation
 - b. Fails to file a report pursuant to Section 13260
 - c. Files an incomplete report pursuant to Section 13260
 - d. Violates a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

Violations under section 13385, subdivision (i)(1) are referred to as chronic violations in this Complaint.

6. On February 19, 2002, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. The Enforcement Policy addresses, among other enforcement issues, issues related to assessing mandatory minimum penalties.
7. Water Code section 13385, subdivision (k)(1) provides that the Regional Water Board may elect to require all or a portion of mandatory minimum penalties imposed under section 13385, subdivisions (h) or (i) against a publicly owned treatment works (POTW) serving an eligible small community be directed to a compliance project (CP) in accordance with Section X of the Enforcement Policy. Loleta's ability to direct all or a portion of the mandatory minimum penalties to a CP is contingent upon determination by the State Water Board that the Discharger meets the definition of a POTW serving a small community. The Enforcement Policy requires that the CP be designed to correct the violations within five years. This Complaint includes requirements for CPs as specified in the Enforcement Policy.
8. For the purpose of determining a Discharger's compliance with effluent limitations in its Waste Discharge Requirements Order/NPDES permit, the 30-day average is equivalent to the monthly average, which is defined as the arithmetic mean of all daily determinations made during a calendar month. Where less than daily sampling is required, the average shall be determined by the sum of all the measured daily discharges divided by the number of days during the calendar month when the measurements were made. If only one

sample is collected during that period of time, the value of the single sample shall constitute the monthly average.

9. The Enforcement Policy states that for the purpose of determining serious violations, BOD, suspended solids, and pH are identified as Group I pollutants in Title 40 Code of Federal Regulations, section 123.45, Appendix A. Total Coliform is neither a Group I nor a Group II pollutant; therefore, exceedances of effluent limitations for total coliform bacteria do not count as serious violations.
10. Order No. R1-2001-59 includes the following requirements and limitations addressed in this Complaint:

B. EFFLUENT LIMITATIONS

1. Representative samples of the discharge shall not contain constituents in excess of the following limits.

| <u>Constituent</u> | <u>Unit</u> | <u>Monthly Average^a</u> | <u>Weekly Average^b</u> | <u>Daily Maximum^c</u> |
|-------------------------------|---------------------|--|---------------------------------------|--------------------------------------|
| BOD (20° C, 5-day) | mg/l | 30 | 45 | 60 |
| | lb/day ^d | 25 | 38 | 50 |
| Suspended Solids | mg/l | 30 | 45 | 60 |
| | lb/day ^e | 25 | 38 | 50 |
| Settleable Solids | ml/l | 0.1 | ----- | 0.2 |
| Coliform Organisms (Total) | MPN/100 ml | 23 ^e | ----- | 230 |
| Hydrogen Ion | pH | Not less than 6.5 nor greater than 8.5 | | |

^a The arithmetic mean of all samples collected in a calendar month.

^b The arithmetic mean of all samples collected in a calendar week, Sunday to Saturday.

^c The maximum sample of all samples collected in a calendar day.

^d The daily discharge (lbs/day) is obtained from the following calculation of any calendar day:

$$\frac{8.34}{N} \sum_{i=1}^N Q_i C_i$$

in which N is the number of samples analyzed in any calendar day. Q_i and C_i are the flow rate (mgd) and the constituent concentration (mg/l), respectively, which are associated with each of the N grab samples, which may be taken in any calendar day. If a composite sample is taken, C_i is the concentration measured in the composite sample; and Q_i is the average flow rate occurring during the period over which samples are composited.

^e Month median. The median of all effluent samples collected in a Month period.

3. There shall be no detectable levels of chlorine in effluent discharged to Discharge SN 001, using a minimum detection limit of 0.1 mg/l.
4. The arithmetic mean of the BOD (20° C, 5-day) and Suspended Solids values, by weight, for effluent samples collected in a period of 30

consecutive days shall not exceed 15 percent of the arithmetic mean of the values, by weight, for influent samples collected at approximately the same time during the same period (85 percent removal).

11. According to monitoring reports submitted by the Discharger for the period from May 1, 2005 through April 30, 2008 the Discharger exceeded effluent limitations one hundred four times while discharging effluent to the Eel River. Of those one hundred four exceedances, seventeen were serious violations, as defined in Water Code section 13385, subdivision (h)(2), and eighty five were chronic effluent violations, as described in Water Code section 13385, subdivision (i)(1). The mandatory minimum penalty amount for violations during this time period is \$291,000, as shown in the following table:

Effluent Limitation Exceedances
May 1, 2005 to April 30, 2008

| Date of Violation | Description of Violation and Permit Limits | Reported Value | Violation Type | Mandatory Penalty |
|--------------------------|---|-----------------------|----------------------------|--------------------------|
| 10/31/2005 | Exceeded Monthly Median of 23 MPN for Coliform | 87 MPN | 1 st Chronic | \$0 |
| 11/26/2005 | pH outside of range limits between 6.5 - 8.5 | 5.98 | 2 nd Chronic | \$0 |
| 11/27/2005 | pH outside of range limits between 6.5 - 8.5 | 6.35 | 3 rd Chronic | \$0 |
| 11/30/2005 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 0.6 mg/l | Serious | \$3,000 |
| 12/02/2005 | pH outside of range limits between 6.5 - 8.5 | 6.0 | Chronic | \$3,000 |
| 12/08/2005 | pH outside of range limits between 6.5 - 8.5 | 6.16 | Chronic | \$3,000 |
| 12/18/2005 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 12/19/2005 | pH outside of range limits between 6.5 - 8.5 | 5.1 | Chronic | \$3,000 |
| 12/20/2005 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 12/22/2005 | pH outside of range limits between 6.5 - 8.5 | 6.3 | Chronic | \$3,000 |
| 12/23/2005 | pH outside of range limits between 6.5 - 8.5 | 5.5 | Chronic | \$3,000 |
| 12/24/2005 | pH outside of range limits between 6.5 - 8.5 | 5.8 | Chronic | \$3,000 |
| 12/24/2005 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 0.1 mg/l | Serious | \$3,000 |
| 12/25/2005 | pH outside of range limits between 6.5 - 8.5 | 5.1 | Chronic | \$3,000 |
| 12/26/2005 | pH outside of range limits between 6.5 - 8.5 | 4.3 | Chronic | \$3,000 |

| Date of Violation | Description of Violation and Permit Limits | Reported Value | Violation Type | Mandatory Penalty |
|--------------------------|--|-----------------------|-----------------------|--------------------------|
| 12/27/2005 | pH outside of range limits between 6.5 - 8.5 | 4.8 | Chronic | \$3,000 |
| 12/28/2005 | pH outside of range limits between 6.5 - 8.5 | 5.2 | Chronic | \$3,000 |
| 12/29/2005 | pH outside of range limits between 6.5 - 8.5 | 4.3 | Chronic | \$3,000 |
| 12/29/2005 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 1.0 mg/l | Serious | \$3,000 |
| 12/30/2005 | pH outside of range limits between 6.5 - 8.5 | 5.8 | Chronic | \$3,000 |
| 01/02/2006 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 0.1 mg/l | Serious | \$3,000 |
| 01/05/2006 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 01/10/2006 | pH outside of range limits between 6.5 - 8.5 | 6.1 | Chronic | \$3,000 |
| 01/10/2006 | Exceeded Daily Maximum of 230 MPN for Coliform | 1600 MPN | Chronic | \$3,000 |
| 01/12/2006 | pH outside of range limits between 6.5 - 8.5 | 6.3 | Chronic | \$3,000 |
| 01/19/2006 | pH outside of range limits between 6.5 - 8.5 | 6.1 | Chronic | \$3,000 |
| 01/25/2006 | pH outside of range limits between 6.5 - 8.5 | 6.3 | Chronic | \$3,000 |
| 01/31/2006 | pH outside of range limits between 6.5 - 8.5 | 6.3 | Chronic | \$3,000 |
| 01/31/2006 | Exceeded Monthly Median of 23 MPN for Coliform | 50 MPN | Chronic | \$3,000 |
| 02/01/2006 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 0.6 mg/l | Serious | \$3,000 |
| 02/07/2006 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 02/14/2006 | Exceeded Daily Maximum of 230 MPN for Coliform | 1600 MPN | Chronic | \$3,000 |
| 02/21/2006 | Exceeded Daily Maximum of 230 MPN for Coliform | 1600 MPN | Chronic | \$3,000 |
| 02/28/2006 | pH outside of range limits between 6.5 - 8.5 | 5.9 | Chronic | \$3,000 |
| 02/28/2006 | Exceeded Monthly Median of 23 MPN for Coliform | 811 MPN | Chronic | \$3,000 |
| 02/28/2006 | Failed to meet Monthly lb/day Removal Limits of 85% for Total Suspended Solids | 78% | Serious | \$3,000 |
| 03/01/2006 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |
| 03/04/2006 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |

| Date of Violation | Description of Violation and Permit Limits | Reported Value | Violation Type | Mandatory Penalty |
|--------------------------|--|-----------------------|----------------------------|--------------------------|
| 03/06/2006 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 03/07/2006 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 03/08/2006 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 03/10/2006 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |
| 03/11/2006 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 03/14/2006 | pH outside of range limits between 6.5 - 8.5 | 6.0 | Chronic | \$3,000 |
| 03/15/2006 | pH outside of range limits between 6.5 - 8.5 | 6.1 | Chronic | \$3,000 |
| 3/16/2006 | Exceeded Daily Limits of 50 lb/day for Total Suspended Solids | 58.45 lb/day | Chronic | \$3,000 |
| 3/16/2006 | Exceeded Weekly Limits of 38 mg/l Total Suspended Solids | 58.45 lb/day | Chronic | \$3,000 |
| 03/19/2006 | pH outside of range limits between 6.5 - 8.5 | 6.3 | Chronic | \$3,000 |
| 03/20/2006 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |
| 03/21/2006 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 03/31/06 | Exceeded Monthly Average of 25 lbs/day for BOD | 27.76 lb/day | Chronic | \$3,000 |
| 03/31/06 | Exceeded Monthly Average of 25 lbs/day for Total Suspended Solids | 58.45 lb/day | Chronic | \$3,000 |
| 03/31/2006 | Failed to meet Monthly lb/day Removal Limits of 85% for Total Suspended Solids | 43% | Serious | \$3,000 |
| 04/02/2006 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |
| 04/03/2006 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |
| 04/16/2006 | pH outside of range limits between 6.5 - 8.5 | 6.3 | Chronic | \$3,000 |
| 04/17/2006 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 04/18/2006 | pH outside of range limits between 6.5 - 8.5 | 6.3 | Chronic | \$3,000 |
| 05/02/2006 | Exceeded Daily Maximum of 230 MPN for Coliform | 900 MPN | Chronic | \$3,000 |
| 11/30/2006 | Failed to meet Monthly lb/day Removal Limits of 85% for Total Suspended Solids | 81% | 1 st Chronic | \$0 |
| 12/05/2006 | Exceeded Daily Maximum of 230 | 1600 MPN | 2 nd | \$0 |

| Date of Violation | Description of Violation and Permit Limits | Reported Value | Violation Type | Mandatory Penalty |
|--------------------------|--|-----------------------|----------------------------|--------------------------|
| | MPN for Coliform | | Chronic | |
| 12/11/2006 | pH outside of range limits between 6.5 - 8.5 | 6.1 | 3 rd Chronic | \$0 |
| 12/12/2006 | pH outside of range limits between 6.5 - 8.5 | 6.3 | Chronic | \$3,000 |
| 12/13/2006 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 12/14/2006 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 12/16/2006 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |
| 12/17/2006 | pH outside of range limits between 6.5 - 8.5 | 6.3 | Chronic | \$3,000 |
| 12/19/2006 | Exceeded Daily Maximum of 230 MPN for Coliform | 1600 MPN | Chronic | \$3,000 |
| 12/26/2006 | pH outside of range limits between 6.5 - 8.5 | 6.3 | Chronic | \$3,000 |
| 12/27/2006 | pH outside of range limits between 6.5 - 8.5 | 6.3 | Chronic | \$3,000 |
| 12/31/2006 | Exceeded Monthly Median of 23 MPN for Coliform | 825 MPN | Chronic | \$3,000 |
| 12/31/2006 | Failed to meet Monthly lb/day Removal Limits of 85% for Total Suspended Solids | 78% | Serious | \$3,000 |
| 01/06/2007 | pH outside of range limits between 6.5 - 8.5 | 6.3 | Chronic | \$3,000 |
| 01/08/2007 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |
| 01/09/2007 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |
| 01/25/2007 | Exceeded Daily Average of 0.2 ml/l for Settleable Solids | 0.3 ml/l | Chronic | \$3,000 |
| 02/09/2007 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |
| 02/11/2007 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |
| 02/12/2007 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |
| 02/13/2007 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |
| 02/14/2007 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 02/15/2007 | Exceeded Daily Average of 0.2 ml/l for Settleable Solids | 0.3 ml/l | Chronic | \$3,000 |
| 02/15/2007 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |
| 02/21/2007 | pH outside of range limits between | 6.3 | Chronic | \$3,000 |

| Date of Violation | Description of Violation and Permit Limits | Reported Value | Violation Type | Mandatory Penalty |
|--------------------------|---|-----------------------|-------------------------|--------------------------|
| | 6.5 - 8.5 | | | |
| 02/22/2007 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 02/23/2007 | pH outside of range limits between 6.5 - 8.5 | 6.3 | Chronic | \$3,000 |
| 02/24/2007 | pH outside of range limits between 6.5 - 8.5 | 6.2 | Chronic | \$3,000 |
| 02/25/2007 | pH outside of range limits between 6.5 - 8.5 | 6.1 | Chronic | \$3,000 |
| 02/25/2007 | Exceeded Daily Maximum of 230 MPN for Coliform | 1600 MPN | Chronic | \$3,000 |
| 02/26/2007 | pH outside of range limits between 6.5 - 8.5 | 6.0 | Chronic | \$3,000 |
| 02/27/2007 | pH outside of range limits between 6.5 - 8.5 | 6.1 | Chronic | \$3,000 |
| 02/28/2007 | pH outside of range limits between 6.5 - 8.5 | 6.4 | Chronic | \$3,000 |
| 02/28/2007 | Failed to meet Monthly lbs/day Removal Limits of 85% for Total Suspended Solids | 84% | Chronic | \$3,000 |
| 12/22/2007 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 8.8 mg/l | Serious | \$3,000 |
| 1/5/2008 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 1.2 mg/l | Serious | \$3,000 |
| 1/10/2008 | pH outside of range limits between 6.5 - 8.5 | 6.2 | 3 rd Chronic | \$0 |
| 1/12/2008 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 5.1 mg/l | Serious | \$3,000 |
| 1/19/2008 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 0.1 mg/l | Serious | \$3,000 |
| 1/20/2008 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 7.8 mg/l | Serious | \$3,000 |
| 1/21/2008 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 5.3 mg/l | Serious | \$3,000 |
| 1/26/2008 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 10.0 mg/l | Serious | \$3,000 |
| 2/2/2008 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 1.3 mg/l | Serious | \$3,000 |
| 2/3/2008 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 0.8 mg/l | Serious | \$3,000 |
| 2/29/2008 | Failed to meet Monthly lb/day Removal Limits of 85% for Total Suspended Solids | 84% | Chronic | \$3,000 |
| Total | | | | \$291,000 |

12. According to monitoring reports submitted by the Discharger for the period from May 1, 2005 through April 30, 2008, the Discharger had an additional forty-nine

violations of effluent limitations while discharging to the percolation pond. These effluent violations are not subject to mandatory minimum penalties because, in accordance with the current NPDES permit, they are considered discharges to land, but are subject to discretionary penalties pursuant to Water Code section 13350, subdivision (e)(1). The maximum penalty amount for these forty-nine violations is \$245,000, as shown in the following table:

| Date of Violation | Description of Violation and Permit Limits | Reported Values | Maximum amount |
|--------------------------|---|------------------------|-----------------------|
| 08/06/2005 | pH outside of range limits between 6.5 - 8.5 | 6.43 | \$5,000 |
| 08/07/2005 | pH outside of range limits between 6.5 - 8.5 | 6.42 | \$5,000 |
| 08/30/2005 | Exceeded Daily Maximum of 230 MPN for Coliform | 900 MPN | \$5,000 |
| 10/04/2005 | Exceeded Daily Maximum of 230 MPN for Coliform | 500 MPN | \$5,000 |
| 05/01/2006 | Failed to meet the Total Chlorine Residual limits of 1.5 mg/l | 0.6 mg/l | \$5,000 |
| 05/02/2006 | Failed to meet the Total Chlorine Residual limits of 1.5 mg/l | 0.6 mg/l | \$5,000 |
| 05/04/2006 | Failed to meet the Total Chlorine Residual limits of 1.5 mg/l | 0.9 mg/l | \$5,000 |
| 05/05/2006 | Failed to meet the Total Chlorine Residual limits of 1.5 mg/l | 0.4 mg/l | \$5,000 |
| 05/06/2006 | Failed to meet the Total Chlorine Residual limits of 1.5 mg/l | 0.9 mg.l | \$5,000 |
| 05/08/2006 | Failed to meet the Total Chlorine Residual limits of 1.5 mg/l | 1.0 mg.l | \$5,000 |
| 05/09/2006 | Failed to meet the Total Chlorine Residual limits of 1.5 mg/l | 0.6 mg/l | \$5,000 |
| 05/13/2006 | Failed to meet the Total Chlorine Residual limits of 1.5 mg/l | 1.4 mg/l | \$5,000 |
| 05/15/2006 | Failed to meet Daily Chlorine Residual Limits of 1.5 mg/l | 1.4 mg/l | \$5,000 |
| 05/19/2006 | Failed to meet the Total Chlorine Residual limits of 1.5 mg/l | 0.8 mg/l | \$5,000 |
| 06/27/2006 | Failed to meet the Total Chlorine Residual limits of 1.5 mg/l | 1.2 mg/l | \$5,000 |
| 06/29/2006 | Failed to meet the Total Chlorine Residual limits of 1.5 mg/l | 1.4 mg/l | \$5,000 |
| 07/05/2006 | Exceeded Daily Chlorine Effluent Limits of non-detect | 2.6 mg/l | \$5,000 |
| 07/26/2006 | Exceeded Daily Chlorine Effluent Limits of non-detect | 0.1 mg/l | \$5,000 |

| Date of Violation | Description of Violation and Permit Limits | Reported Values | Maximum amount |
|--------------------------|--|------------------------|-----------------------|
| 07/27/2006 | Exceeded Daily Total Settleable Solids Limits of 0.2 ml/l | 0.6 ml/l | \$5,000 |
| 07/27/2006 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 0.1 mg/l | \$5,000 |
| 07/28/2006 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 0.1 mg/l | \$5,000 |
| 07/29/2006 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 0.1 mg/l | \$5,000 |
| 07/30/2006 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 0.1 mg/l | \$5,000 |
| 07/30/2006 | Failed to meet the Total Chlorine Residual limits of 1.5 mg/l | 0.2 mg/l | \$5,000 |
| 7/30/2006 | Failed to meet Monthly Average of 0.1 ml/l for Settleable Solids | 0.2 ml/l | \$5,000 |
| 08/01/2006 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 0.1 mg/l | \$5,000 |
| 08/04/2006 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 0.1 mg/l | \$5,000 |
| 09/03/2006 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 0.1 mg/l | \$5,000 |
| 09/03/2006 | Failed to meet Daily Total Chlorine Residual limits of 1.5 mg/l | 1.4 mg/l | \$5,000 |
| 10/10/2006 | Exceeded Daily Maximum of 230 MPN for Coliform | 900 MPN | \$5,000 |
| 10/12/2006 | Failed to meet Daily Total Chlorine Residual limits of 1.5 mg/l | 1.0 mg/l | \$5,000 |
| 10/14/2006 | Failed to meet Daily Chlorine Effluent Limits of non-detect | 0.1 mg/l | \$5,000 |
| 12/5/2006 | Failed to meet Daily Chlorine Residual limits of 1.5 mg/l | 0.0 mg/l | \$5,000 |
| 06/12/2007 | Exceeded Daily Maximum of 230 MPN for Coliform | 1600 MPN | \$5,000 |
| 06/19/2007 | Exceeded Daily Maximum of 230 MPN for Coliform | 900 MPN | \$5,000 |
| 06/30/2007 | Exceeded Monthly Median of 23 MPN for Coliform | 490 MPN | \$5,000 |
| 7/3/2007 | pH outside of range limits between 6.5 - 8.5 | 6.4 | \$5,000 |
| 7/4/2007 | pH outside of range limits between 6.5 - 8.5 | 6.2 | \$5,000 |
| 7/8/2007 | pH outside of range limits | 6.4 | \$5,000 |

| Date of Violation | Description of Violation and Permit Limits | Reported Values | Maximum amount |
|--------------------------|--|------------------------|-----------------------|
| | between 6.5 - 8.5 | | |
| 8/3/2007 | Exceeded Daily Maximum of 230 MPN for Coliform | 1600 MPN | \$5,000 |
| 8/9/2007 | Exceeded Daily Maximum of 230 MPN for Coliform | 1600 MPN | \$5,000 |
| 8/31/2007 | Exceeded Monthly Median of 23 MPN for Coliform | 50 MPN | \$5,000 |
| 10/2/2007 | Exceeded Daily Maximum of 230 MPN for Coliform | 500 MPN | \$5,000 |
| 10/16/2007 | Exceeded Daily Maximum of 230 MPN for Coliform | 280 MPN | \$5,000 |
| 11/15/2007 | Failed to meet Monthly Average of 30 mg/l for Total Suspended Solids | 37.7 mg/l | \$5,000 |
| 12/1/2007 | Failed to meet Daily Total Chlorine Residual limits of 1.5 mg/l | 0.5 mg/l | \$5,000 |
| 12/16/2007 | Failed to meet Daily Total Chlorine Residual limits of 1.5 mg/l | 1.2 mg/l | \$5,000 |
| 4/8/2008 | Failed to meet Daily Total Chlorine Residual limits of 1.5 mg/l | 0.9 mg/l | \$5,000 |
| 4/11/2008 | Failed to meet Daily Total Chlorine Residual limits of 1.5 mg/l | 1.4 mg/l | \$5,000 |
| | | | \$245,000 |

13. In determining the amount of any civil liability under Water Code 13350, subsection 13350 (f) requires that the Regional Water Board take into account the nature, circumstances, extent, and gravity of the violation, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require.

a) **The nature, circumstances, extent, and gravity of the violation**

1) Failure to Meet Daily Chlorine Residual Limit in Chlorine Contact Chamber

Over the assessment period, there were 20 violations for failing to meet the required daily chlorine residual of 1.5 mg/l in the chlorine contact

chamber. The chlorine contact chamber is designed to disinfect the effluent before it leaves the facility. The minimum of 1.5 mg/l chlorine residual provides added assurance that the effluent is disinfected. If effluent is not adequately disinfected, it may pose a threat to public health.

2) Exceeding Chlorine Limit in Effluent at Discharge Point

Over the assessment period, there were 10 violations for exceeding the chlorine limit of non-detect, with a minimum detection limit of 0.1 mg/l at the discharge point. Nine of the ten violations reported were for chlorine detected at 0.1 mg/l, and one for chlorine measured at 2.6 mg/l. The drinking water MCL for chlorine is 4 mg/l, however recommended chlorine limits for aquatic life are far lower; the 1 hour maximum concentration for freshwater life is 0.0019 mg/l. Residual chlorine in effluent is a significant violation with a potentially serious environmental impact.

3) Exceedances of Coliform Effluent Limitations

Over the assessment period, there were two violations for exceeding the monthly median coliform limit of 23 most probable number (MPN), and nine violations for exceeding a daily coliform limit of 230 MPN. The Water Quality Enforcement Policy does not consider coliform to be a Group 1 or Group 2 Pollutant, and therefore does not consider coliform violations to be serious violations. However, high concentrations of coliform fecal bacteria in water impair beneficial uses related to public health, including REC-1 and SHELL (shellfish harvesting).

4) Failure to Meet pH Requirements

Over the assessment period, there were five violations for not meeting daily pH limits of not less than 6.5 nor greater than 8.5. The pH violations were reported as follows: 1 at 6.2 and 4 at 6.4. pH outside of the acceptable limits can adversely impact beneficial uses associated with fish and wildlife habitat, however staff anticipate that due to the infrequency of the violations and the volume of other flows available for mixing in the vicinity of the discharge point, it is likely that any adverse impact associated with these violations would be fairly short term and localized.

5) Settleable Solids

Over the assessment period, there was one violation for exceeding monthly settleable solids limit of 0.1 mg/l (measured at 0.2 mg/l). The Basin Plan states, under Section 3 Water Quality Objectives, Objectives for Inland Surface Water, Enclosed Bays and Estuaries, Settleable Material, that "Waters shall not contain substances in concentrations that

result in deposition of material that causes nuisance or adversely affect beneficial uses.” Due to the infrequent occurrence as well as the continuous flow exiting the discharge pipe, staff do not believe that the settleable solids associated with this violation resulted in measurable bottom deposit.

6) Total Suspended Solids

During the assessment period, there was one violation for exceeding the limit for total suspended solids. The Basin Plan states, under Section 3 Water Quality Objectives, Objectives for Inland Surface Water, Enclosed Bays and Estuaries, Suspended Material, that “Waters shall not contain suspended material in concentrations that result in depositions of material that causes nuisance or adversely affect beneficial uses.” Staff do not know whether the total suspended solids associated with this violation resulted in any depositions of material, but note that as only one violation was recorded during the reporting period, it is likely that adverse impacts to beneficial uses, if any, were relatively short term.

(b) **Whether the discharge is susceptible to cleanup or abatement:**

The violations described above occurred periodically and/or infrequently and are not of a nature that would be easily susceptible to cleanup once identified, however abatement, minimization or prevention of future violations, may be possible through modifications to the treatment facility/process. Specifically, the more serious violations identified above are associated with the disinfection portion of the wastewater plant/process. Staff note that a combination of assessing influent, upgrading the disinfection/dechlorination facilities, upgrading and/or properly maintaining equipment, ensuring adequate training of operators, monitoring, and adaptive management steps would help to minimize violations associated with chlorination, dechlorination, and disinfection. As discussed further below, staff recommend that the Board consider suspending a portion of the monetary assessment pending the satisfactory completion of a compliance project that, at a minimum, improves the disinfection facilities and process at the plant.

(c) **The degree of toxicity of the discharge**

The residual chlorine in effluent is potentially toxic. While violations noted above did not involve concentrations above drinking water MCLs, the concentrations were above published limits for aquatic life.

With respect to the violator:

(d) **The ability to pay**

Loleta CSD serves a small, low income community. The 2000 Census shows Loleta CSD with a population of 750 and an average annual income of \$31,284. The CSD also receives industrial wastewater discharges from the Loleta Cheese Factory.

Over past years, the CSD has spent approximately \$118,000 on compliance projects and, in order to fully comply with Administrative Civil Liability Order (ACLO) No. R1-2007-0003, issued on February 8, 2007, the CSD must spend an additional approximately \$96,000 over the next 4 years. It is likely that the CSD will have to raise sewer fees in order to address these previously assessed penalties, if it has not done so already. Additional penalties will likely require additional increases to sewer fees. However, in absence of comprehensive, effective improvements and/or changes to the method and manner of its wastewater collection, treatment, and disposal system, the CSD will continue to violate permit requirements and continue to be subject to additional penalties, both discretionary and mandatory, regardless of its ability to pay those penalties.

(e) **The effect on its ability to continue business**

Extreme financial penalties put an excessive burden on this low income community, however, as noted above, if preventive measures are not implemented, staff anticipate that similar violations will continue to occur, resulting in adverse impacts to water quality and beneficial uses, as well as both mandatory and discretionary penalties for the Discharger. Hence, staff are not recommending significant reductions to the proposed penalty, but are recommending that the Board follow the Enforcement Policy and include this penalty as an additional monetary assessment against the discharger, allowing the Discharger to use this money, along with mandatory minimum penalties assessed, to upgrade its WWTF to avoid future penalties. Although Loleta CSD cannot undertake a compliance project in lieu of paying the mandatory minimum penalties unless the State Water Board determines that Loleta meets the requirements of section 13385(k)(2), we believe it is likely that the State Water Board will find that Loleta meets those requirements.

(f) **Any voluntary cleanup efforts undertaken**

Loleta CSD has made improvements to the chlorine disinfection distribution system, modified the chlorine contact basin, installed a new

alarm system, performed smoke testing on portions of the collection system and installed an emergency generator within the last several years. However, as indicated by the violations occurring over the assessment period, improvements or modifications to date have not effectively addressed problems associated with disinfection and/or dechlorination.

(g) **Any prior history of violations**

Infiltration and inflow (I&I) have demonstrably contributed to violations since the early 1990s. I&I is clean storm and/or groundwater that enters the sanitary sewer system through holes, breaks, joint failures, connection failures, illegally connected sump pumps, down spouts, and footing drains, and from cross-connections with storm sewers. Most inflow comes from storm water and most infiltration comes from groundwater. High groundwater levels and storm events can contribute to excessive sewer flows. Violations were also attributable to the lack of an alarm system to notify the operator if there was a power outage that would affect the operation of the facility. Therefore, on November 29, 2004, the Regional Water Board issued Cease and Desist Order No. R1-2004-0096 directing Loleta CSD to address these issues by December 1, 2009.

On February 8, 2007, the Regional Water Board issued ACLO No. R1-2007-003 to the CSD for effluent violations, assessing a total penalty of \$215,000. The ACLO covered MMP violations from January 1, 2000 through April 30, 2005. Loleta CSD opted to improve the WWTF by implementing a compliance project with the penalty monies. The compliance project includes improvements to the treatment system as well as repair and testing of the collection system to reduce I&I. Loleta CSD will budget more than \$24,000 per year to fund this compliance project. The project is aimed at improving overall effluent quality and must be completed by February 28, 2011.

(h) **The degree of culpability, economic benefit or savings, if any, resulting from the violation and other matters that justice may require**

Past enforcement orders have likely helped alert the CSD to the fact that there are upgrades to their WWTF that are necessary to consistently keep discharges from the WWTF from violating the requirements of the WDRs and of the Basin Plan. As noted above, the CSD has made efforts to address identified problems through compliance projects.

In addition, the CSD has attempted to secure State grant monies in order to address the problems; to date those attempts have been unsuccessful.

Specific economic benefit or savings resulting from the violations is likely offset by the penalties associated with those violations.

14. Taking the above into account and the MMPs already imposed with this ACLC, the Regional Water Board has decided to lower the maximum penalty amount. Of the forty-nine violations, ten are for chlorine effluent violations. One chlorine violation was at 2.6 mg/l in the effluent and is a significant violation with potential environmental impacts. Therefore, the discretionary chlorine effluent violations will have a monetary penalty of \$2,500 each for a total of \$25,000. The remaining discretionary violations will have a monetary penalty of \$1,250 each for a total of \$48,750. The total discretionary penalty is \$73,750.
15. The Enforcement Policy allows the Regional Water Board to include provisions in the ACL to encourage future work by the discharger to address problems related to the violation when the underlying problem that caused the violations has not been corrected. The Regional Water Board does this by including an additional monetary assessment against the discharger that is based on the cost of returning to and/or maintaining compliance (i.e., the estimated cost of completing the specified CP). Here, the Regional Water Board is including an additional penalty of \$73,750 to the penalty of \$291,000 for mandatory minimum penalties for a total penalty of \$364,750, all of which may be put towards a compliance project, except for the amount necessary to cover staff costs, if the State Water Board concludes that Loleta is a POTW serving a small community, as defined in Water Code section 13385(k)(2).
16. Regional Water Board staff costs associated with this enforcement action are estimated to be a minimum of \$20,000. This includes staff time to tally violations and prepare this Complaint, public notices, public hearing, response to comments, and evaluation and tracking of a Compliance Project, if any, through to completion.
17. The issuance of this Complaint is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321, subdivision (a)(2).

THE LOLETA COMMUNITY SERVICES DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. Based on the review of the above facts and required factors, the Assistant Executive Officer proposes that the Discharger be assessed an administrative civil liability in the amount of \$364,750.
2. The Regional Water Board shall conduct a hearing on this Complaint on December 11, 2008, unless the Discharger waives the right to a hearing under

Water Code section 13323, subdivision (b) by signing and returning the waiver form attached to this Complaint within thirty days of the date of this Complaint. By doing so, the Discharger agrees to:

Option 1

Pay the penalty of \$364,750 in full to the State Water Pollution Cleanup and Abatement Account within thirty days of the date of this Complaint, or

Option 2

Propose a CP in the amount up to \$344,750 that, at a minimum, addresses the problems associated with the disinfection process/system at the facility and pay the \$20,000 balance of the penalty (to recover staff costs) within thirty days from the date of the Complaint (or in compliance with a payment schedule issued in writing by the Executive Officer) and submit to the Assistant Executive Officer any documentation that it may have regarding: 1) population served by the POTW; 2) median income of residents served; 3) the rate of unemployment; 4) population density of the area served; and 5) any additional information that may be relevant to a determination of "small community" status for the Loleta Community Services District. The Assistant Executive Officer will then use this information to request that the State Water Board determine whether the Discharger qualifies as a POTW serving a small community, and is eligible under 13385(k) to complete a CP in lieu of paying all or a portion of the penalties. The sum of the CP and the amount of the penalty to be paid to the CAA must at least equal the amount of the full penalty. All payments, including money not used for the CP, must be payable to the State Water Pollution Cleanup and Abatement Account.

3. If the Discharger chooses to propose a CP, a proposal must be submitted within thirty days of the date of this Complaint to the Executive Officer for conceptual approval. Any CP proposal shall also conform to the requirements specified in the Enforcement Policy. The CP proposal must include a time schedule, for concurrence by the Executive Officer, to address implementation and completion of the CP.

If the proposed CP and/or implementation schedule is not acceptable, the Executive Officer may allow the Discharger thirty days to submit a new or revised proposal, or may demand that the Discharger remit all or a portion of the assigned penalties. All payments, including money not used for the CP, must be payable to the State Water Pollution Cleanup and Abatement Account.

4. If the Discharger waives the hearing and pays the liability, the resulting settlement may become effective on the next day after end of the thirty day public comment period for this Complaint.

If there are significant public comments, the Executive Officer may withdraw this Complaint, and issue a new complaint, or take other appropriate action.

5. If a hearing is held, the Regional Water Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the matter to the Attorney General to have a Superior Court consider enforcement.
6. Regulations of the United States Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act, including NPDES permit violations. Accordingly, interested persons will be given thirty days to comment on any proposed settlement of this Complaint.
7. Notwithstanding the issuance of the Complaint, the Regional Water Board shall retain the authority to assess additional penalties beyond the mandatory minimums for violations of the Discharger's waste discharge requirements.

Luis G. Rivera
Assistant Executive Officer

October 7, 2008